

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Freedom of Information Act is amended by
5 changing Sections 2, 3, 6, and 9.5 and by adding Sections 3.6
6 and 8.5 as follows:

7 (5 ILCS 140/2) (from Ch. 116, par. 202)

8 Sec. 2. Definitions. As used in this Act:

9 (a) "Public body" means all legislative, executive,
10 administrative, or advisory bodies of the State, state
11 universities and colleges, counties, townships, cities,
12 villages, incorporated towns, school districts and all other
13 municipal corporations, boards, bureaus, committees, or
14 commissions of this State, any subsidiary bodies of any of the
15 foregoing including but not limited to committees and
16 subcommittees thereof, and a School Finance Authority created
17 under Article 1E of the School Code. "Public body" does not
18 include a child death review team or the Illinois Child Death
19 Review Teams Executive Council established under the Child
20 Death Review Team Act.

21 (b) "Person" means any individual, corporation,
22 partnership, firm, organization or association, acting
23 individually or as a group.

1 (c) "Public records" means all records, reports, forms,
2 writings, letters, memoranda, books, papers, maps,
3 photographs, microfilms, cards, tapes, recordings, electronic
4 data processing records, electronic communications, recorded
5 information and all other documentary materials pertaining to
6 the transaction of public business, regardless of physical form
7 or characteristics, having been prepared by or for, or having
8 been or being used by, received by, in the possession of, or
9 under the control of any public body.

10 (c-5) "Private information" means unique identifiers,
11 including a person's social security number, driver's license
12 number, employee identification number, biometric identifiers,
13 personal financial information, passwords or other access
14 codes, medical records, home or personal telephone numbers, and
15 personal email addresses. Private information also includes
16 home address and personal license plates, except as otherwise
17 provided by law or when compiled without possibility of
18 attribution to any person.

19 (c-10) "Commercial purpose" means the use of any part of a
20 public record or records, or information derived from public
21 records, in any form for sale, resale, or solicitation or
22 advertisement for sales or services. For purposes of this
23 definition, requests made by news media and non-profit,
24 scientific, or academic organizations shall not be considered
25 to be made for a "commercial purpose" when the principal
26 purpose of the request is (i) to access and disseminate

1 information concerning news and current or passing events, (ii)
2 for articles of opinion or features of interest to the public,
3 or (iii) for the purpose of academic, scientific, or public
4 research or education.

5 (d) "Copying" means the reproduction of any public record
6 by means of any photographic, electronic, mechanical or other
7 process, device or means now known or hereafter developed and
8 available to the public body.

9 (e) "Head of the public body" means the president, mayor,
10 chairman, presiding officer, director, superintendent,
11 manager, supervisor or individual otherwise holding primary
12 executive and administrative authority for the public body, or
13 such person's duly authorized designee.

14 (f) "News media" means a newspaper or other periodical
15 issued at regular intervals whether in print or electronic
16 format, a news service whether in print or electronic format, a
17 radio station, a television station, a television network, a
18 community antenna television service, or a person or
19 corporation engaged in making news reels or other motion
20 picture news for public showing.

21 (g) "Recurrent requester", as used in Section 3.2 of this
22 Act, means a person that, in the 12 months immediately
23 preceding the request, has submitted to the same public body
24 (i) a minimum of 50 requests for records, (ii) a minimum of 15
25 requests for records within a 30-day period, or (iii) a minimum
26 of 7 requests for records within a 7-day period. For purposes

1 of this definition, requests made by news media and non-profit,
2 scientific, or academic organizations shall not be considered
3 in calculating the number of requests made in the time periods
4 in this definition when the principal purpose of the requests
5 is (i) to access and disseminate information concerning news
6 and current or passing events, (ii) for articles of opinion or
7 features of interest to the public, or (iii) for the purpose of
8 academic, scientific, or public research or education.

9 For the purposes of this subsection (g), "request" means a
10 written document (or oral request, if the public body chooses
11 to honor oral requests) that is submitted to a public body via
12 personal delivery, mail, telefax, electronic mail, or other
13 means available to the public body and that identifies the
14 particular public record the requester seeks. One request may
15 identify multiple records to be inspected or copied.

16 (h) "Voluminous request" means a request that: (i) includes
17 more than 5 individual requests for more than 5 different
18 categories of records or a combination of individual requests
19 that total requests for more than 5 different categories of
20 records in a period of 20 business days; or (ii) requires the
21 compilation of more than 500 letter or legal-sized pages of
22 public records unless a single requested record exceeds 500
23 pages. "Single requested record" may include, but is not
24 limited to, one report, form, e-mail, letter, memorandum, book,
25 map, microfilm, tape, or recording.

26 "Voluminous request" does not include a request made by

1 news media and non-profit, scientific, or academic
2 organizations if the principal purpose of the request is: (1)
3 to access and disseminate information concerning news and
4 current or passing events; (2) for articles of opinion or
5 features of interest to the public; or (3) for the purpose of
6 academic, scientific, or public research or education.

7 For the purposes of this subsection (h), "request" means a
8 written document, or oral request, if the public body chooses
9 to honor oral requests, that is submitted to a public body via
10 personal delivery, mail, telefax, electronic mail, or other
11 means available to the public body and that identifies the
12 particular public record or records the requester seeks. One
13 request may identify multiple individual records to be
14 inspected or copied.

15 (Source: P.A. 96-261, eff. 1-1-10; 96-542, eff. 1-1-10;
16 96-1000, eff. 7-2-10; 97-579, eff. 8-26-11.)

17 (5 ILCS 140/3) (from Ch. 116, par. 203)

18 Sec. 3. (a) Each public body shall make available to any
19 person for inspection or copying all public records, except as
20 otherwise provided in Sections ~~Section~~ 7 and 8.5 of this Act.
21 Notwithstanding any other law, a public body may not grant to
22 any person or entity, whether by contract, license, or
23 otherwise, the exclusive right to access and disseminate any
24 public record as defined in this Act.

25 (b) Subject to the fee provisions of Section 6 of this Act,

1 each public body shall promptly provide, to any person who
2 submits a request, a copy of any public record required to be
3 disclosed by subsection (a) of this Section and shall certify
4 such copy if so requested.

5 (c) Requests for inspection or copies shall be made in
6 writing and directed to the public body. Written requests may
7 be submitted to a public body via personal delivery, mail,
8 telefax, or other means available to the public body. A public
9 body may honor oral requests for inspection or copying. A
10 public body may not require that a request be submitted on a
11 standard form or require the requester to specify the purpose
12 for a request, except to determine whether the records are
13 requested for a commercial purpose or whether to grant a
14 request for a fee waiver. All requests for inspection and
15 copying received by a public body shall immediately be
16 forwarded to its Freedom of Information officer or designee.

17 (d) Each public body shall, promptly, either comply with or
18 deny a request for public records within 5 business days after
19 its receipt of the request, unless the time for response is
20 properly extended under subsection (e) of this Section. Denial
21 shall be in writing as provided in Section 9 of this Act.
22 Failure to comply with a written request, extend the time for
23 response, or deny a request within 5 business days after its
24 receipt shall be considered a denial of the request. A public
25 body that fails to respond to a request within the requisite
26 periods in this Section but thereafter provides the requester

1 with copies of the requested public records may not impose a
2 fee for such copies. A public body that fails to respond to a
3 request received may not treat the request as unduly burdensome
4 under subsection (g).

5 (e) The time for response under this Section may be
6 extended by the public body for not more than 5 business days
7 from the original due date for any of the following reasons:

8 (i) the requested records are stored in whole or in
9 part at other locations than the office having charge of
10 the requested records;

11 (ii) the request requires the collection of a
12 substantial number of specified records;

13 (iii) the request is couched in categorical terms and
14 requires an extensive search for the records responsive to
15 it;

16 (iv) the requested records have not been located in the
17 course of routine search and additional efforts are being
18 made to locate them;

19 (v) the requested records require examination and
20 evaluation by personnel having the necessary competence
21 and discretion to determine if they are exempt from
22 disclosure under Section 7 of this Act or should be
23 revealed only with appropriate deletions;

24 (vi) the request for records cannot be complied with by
25 the public body within the time limits prescribed by
26 paragraph (c) of this Section without unduly burdening or

1 interfering with the operations of the public body;

2 (vii) there is a need for consultation, which shall be
3 conducted with all practicable speed, with another public
4 body or among two or more components of a public body
5 having a substantial interest in the determination or in
6 the subject matter of the request.

7 The person making a request and the public body may agree
8 in writing to extend the time for compliance for a period to be
9 determined by the parties. If the requester and the public body
10 agree to extend the period for compliance, a failure by the
11 public body to comply with any previous deadlines shall not be
12 treated as a denial of the request for the records.

13 (f) When additional time is required for any of the above
14 reasons, the public body shall, within 5 business days after
15 receipt of the request, notify the person making the request of
16 the reasons for the extension and the date by which the
17 response will be forthcoming. Failure to respond within the
18 time permitted for extension shall be considered a denial of
19 the request. A public body that fails to respond to a request
20 within the time permitted for extension but thereafter provides
21 the requester with copies of the requested public records may
22 not impose a fee for those copies. A public body that requests
23 an extension and subsequently fails to respond to the request
24 may not treat the request as unduly burdensome under subsection
25 (g).

26 (g) Requests calling for all records falling within a

1 category shall be complied with unless compliance with the
2 request would be unduly burdensome for the complying public
3 body and there is no way to narrow the request and the burden
4 on the public body outweighs the public interest in the
5 information. Before invoking this exemption, the public body
6 shall extend to the person making the request an opportunity to
7 confer with it in an attempt to reduce the request to
8 manageable proportions. If any public body responds to a
9 categorical request by stating that compliance would unduly
10 burden its operation and the conditions described above are
11 met, it shall do so in writing, specifying the reasons why it
12 would be unduly burdensome and the extent to which compliance
13 will so burden the operations of the public body. Such a
14 response shall be treated as a denial of the request for
15 information.

16 Repeated requests from the same person for the same records
17 that are unchanged or identical to records previously provided
18 or properly denied under this Act shall be deemed unduly
19 burdensome under this provision.

20 (h) Each public body may promulgate rules and regulations
21 in conformity with the provisions of this Section pertaining to
22 the availability of records and procedures to be followed,
23 including:

24 (i) the times and places where such records will be
25 made available, and

26 (ii) the persons from whom such records may be

1 obtained.

2 (i) The time periods for compliance or denial of a request
3 to inspect or copy records set out in this Section shall not
4 apply to requests for records made for a commercial purpose,
5 requests by a recurrent requester, or voluminous requests. Such
6 requests shall be subject to the provisions of Sections ~~Section~~
7 3.1, 3.2, and 3.6 of this Act, as applicable.

8 (Source: P.A. 96-542, eff. 1-1-10.)

9 (5 ILCS 140/3.6 new)

10 Sec. 3.6. Voluminous requests.

11 (a) Notwithstanding any provision of this Act to the
12 contrary, a public body shall respond to a voluminous request
13 within 5 business days after receipt. The response shall notify
14 the requester: (i) that the public body is treating the request
15 as a voluminous request; (ii) the reasons why the public body
16 is treating the request as a voluminous request; (iii) that the
17 requester must respond to the public body within 10 business
18 days after the public body's response was sent and specify
19 whether the requester would like to amend the request in such a
20 way that the public body will no longer treat the request as a
21 voluminous request; (iv) that if the requester does not respond
22 within 10 business days or if the request continues to be a
23 voluminous request following the requester's response, the
24 public body will respond to the request and assess any fees the
25 public body charges pursuant to Section 6 of this Act; (v) that

1 the public body has 5 business days after receipt of the
2 requester's response or 5 business days from the last day for
3 the requester to amend his or her request, whichever is sooner,
4 to respond to the request; (vi) that the public body may
5 request an additional 10 business days to comply with the
6 request; (vii) of the requester's right to review of the public
7 body's determination by the Public Access Counselor and provide
8 the address and phone number for the Public Access Counselor;
9 and (viii) that if the requester fails to accept or collect the
10 responsive records, the public body may still charge the
11 requester for its response pursuant to Section 6 of this Act
12 and the requester's failure to pay will be considered a debt
13 due and owing to the public body and may be collected in
14 accordance with applicable law.

15 (b) A public body shall provide a person making a
16 voluminous request 10 business days from the date the public
17 body's response pursuant to subsection (a) of this Section is
18 sent to amend the request in such a way that the public body
19 will no longer treat the request as a voluminous request.

20 (c) If a request continues to be a voluminous request
21 following the requester's response under subsection (b) of this
22 Section or the requester fails to respond, the public body
23 shall respond within the earlier of 5 business days after it
24 receives the response from the requester or 5 business days
25 after the final day for the requester to respond to the public
26 body's notification under this subsection. The response shall:

1 (i) provide an estimate of the fees to be charged, which the
2 public body may require the person to pay in full before
3 copying the requested documents; (ii) deny the request pursuant
4 to one or more of the exemptions set out in this Act; (iii)
5 notify the requester that the request is unduly burdensome and
6 extend an opportunity to the requester to attempt to reduce the
7 request to manageable proportions; or (iv) provide the records
8 requested.

9 (d) The time for response by the public body under
10 subsection (c) of this Section may be extended by the public
11 body for not more than 10 business days from the final day for
12 the requester to respond to the public body's notification
13 under subsection (c) of this Section for any of the reasons
14 provided in subsection (e) of Section 3 of this Act.

15 The person making a request and the public body may agree
16 in writing to extend the time for compliance for a period to be
17 determined by the parties. If the requester and the public body
18 agree to extend the period for compliance, a failure by the
19 public body to comply with any previous deadlines shall not be
20 treated as a denial of the request for the records.

21 (e) If a requester does not pay a fee charged pursuant to
22 Section 6 of this Act for a voluminous request, the debt shall
23 be considered a debt due and owing to the public body and may
24 be collected in accordance with applicable law. This fee may be
25 charged by the public body even if the requester fails to
26 accept or collect records the public body has prepared in

1 response to a voluminous request.

2 (5 ILCS 140/6) (from Ch. 116, par. 206)

3 Sec. 6. Authority to charge fees.

4 (a) When a person requests a copy of a record maintained in
5 an electronic format, the public body shall furnish it in the
6 electronic format specified by the requester, if feasible. If
7 it is not feasible to furnish the public records in the
8 specified electronic format, then the public body shall furnish
9 it in the format in which it is maintained by the public body,
10 or in paper format at the option of the requester. A public
11 body may charge the requester for the actual cost of purchasing
12 the recording medium, whether disc, diskette, tape, or other
13 medium. If a request is not a request for a commercial purpose
14 or a voluminous request, a ~~A~~ public body may not charge the
15 requester for the costs of any search for and review of the
16 records or other personnel costs associated with reproducing
17 the records, ~~except for commercial requests as provided in~~
18 ~~subsection (f) of this Section.~~ Except to the extent that the
19 General Assembly expressly provides, statutory fees applicable
20 to copies of public records when furnished in a paper format
21 shall not be applicable to those records when furnished in an
22 electronic format.

23 (a-5) If a voluminous request is for electronic records and
24 those records are not in a portable document format (PDF), the
25 public body may charge up to \$20 for not more than 2 megabytes

1 of data, up to \$40 for more than 2 but not more than 4 megabytes
2 of data, and up to \$100 for more than 4 megabytes of data. If a
3 voluminous request is for electronic records and those records
4 are in a portable document format, the public body may charge
5 up to \$20 for not more than 80 megabytes of data, up to \$40 for
6 more than 80 megabytes but not more than 160 megabytes of data,
7 and up to \$100 for more than 160 megabytes of data. If the
8 responsive electronic records are in both a portable document
9 format and not in a portable document format, the public body
10 may separate the fees and charge the requester under both fee
11 scales.

12 If a public body imposes a fee pursuant to this subsection
13 (a-5), it must provide the requester with an accounting of all
14 fees, costs, and personnel hours in connection with the request
15 for public records.

16 (b) Except when a fee is otherwise fixed by statute, each
17 public body may charge fees reasonably calculated to reimburse
18 its actual cost for reproducing and certifying public records
19 and for the use, by any person, of the equipment of the public
20 body to copy records. No fees shall be charged for the first 50
21 pages of black and white, letter or legal sized copies
22 requested by a requester. The fee for black and white, letter
23 or legal sized copies shall not exceed 15 cents per page. If a
24 public body provides copies in color or in a size other than
25 letter or legal, the public body may not charge more than its
26 actual cost for reproducing the records. In calculating its

1 actual cost for reproducing records or for the use of the
2 equipment of the public body to reproduce records, a public
3 body shall not include the costs of any search for and review
4 of the records or other personnel costs associated with
5 reproducing the records, except for commercial requests as
6 provided in subsection (f) of this Section. Such fees shall be
7 imposed according to a standard scale of fees, established and
8 made public by the body imposing them. The cost for certifying
9 a record shall not exceed \$1.

10 (c) Documents shall be furnished without charge or at a
11 reduced charge, as determined by the public body, if the person
12 requesting the documents states the specific purpose for the
13 request and indicates that a waiver or reduction of the fee is
14 in the public interest. Waiver or reduction of the fee is in
15 the public interest if the principal purpose of the request is
16 to access and disseminate information regarding the health,
17 safety and welfare or the legal rights of the general public
18 and is not for the principal purpose of personal or commercial
19 benefit. For purposes of this subsection, "commercial benefit"
20 shall not apply to requests made by news media when the
21 principal purpose of the request is to access and disseminate
22 information regarding the health, safety, and welfare or the
23 legal rights of the general public. In setting the amount of
24 the waiver or reduction, the public body may take into
25 consideration the amount of materials requested and the cost of
26 copying them.

1 (d) The imposition of a fee not consistent with subsections
2 (6) (a) and (b) of this Act constitutes a denial of access to
3 public records for the purposes of judicial review.

4 (e) The fee for each abstract of a driver's record shall be
5 as provided in Section 6-118 of "The Illinois Vehicle Code",
6 approved September 29, 1969, as amended, whether furnished as a
7 paper copy or as an electronic copy.

8 (f) A public body may charge up to \$10 for each hour spent
9 by personnel in searching for and retrieving a requested record
10 or examining the record for necessary redactions. No fees shall
11 be charged for the first 8 hours spent by personnel in
12 searching for or retrieving a requested record. A public body
13 may charge the actual cost of retrieving and transporting
14 public records from an off-site storage facility when the
15 public records are maintained by a third-party storage company
16 under contract with the public body. If a public body imposes a
17 fee pursuant to this subsection (f), it must provide the
18 requester with an accounting of all fees, costs, and personnel
19 hours in connection with the request for public records. The
20 provisions of this subsection (f) apply only to commercial
21 requests.

22 (Source: P.A. 96-542, eff. 1-1-10; 96-1000, eff. 7-2-10;
23 97-579, eff. 8-26-11.)

24 (5 ILCS 140/8.5 new)

25 Sec. 8.5. Records maintained online.

1 (a) Notwithstanding any provision of this Act to the
2 contrary, a public body is not required to copy a public record
3 that is published on the public body's website. The public body
4 shall notify the requester that the public record is available
5 online and direct the requester to the website where the record
6 can be reasonably accessed.

7 (b) If the person requesting the public record is unable to
8 reasonably access the record online after being directed to the
9 website pursuant to subsection (a) of this Section, the
10 requester may re-submit his or her request for the record
11 stating his or her inability to reasonably access the record
12 online, and the public body shall make the requested record
13 available for inspection or copying as provided in Section 3 of
14 this Act.

15 (5 ILCS 140/9.5)

16 Sec. 9.5. Public Access Counselor; opinions.

17 (a) A person whose request to inspect or copy a public
18 record is denied by a public body, except the General Assembly
19 and committees, commissions, and agencies thereof, may file a
20 request for review with the Public Access Counselor established
21 in the Office of the Attorney General not later than 60 days
22 after the date of the final denial. The request for review must
23 be in writing, signed by the requester, and include (i) a copy
24 of the request for access to records and (ii) any responses
25 from the public body.

1 (b) A person whose request to inspect or copy a public
2 record is made for a commercial purpose as defined in
3 subsection (c-10) of Section 2 of this Act may not file a
4 request for review with the Public Access Counselor. A person
5 whose request to inspect or copy a public record was treated by
6 the public body as a request for a commercial purpose under
7 Section 3.1 of this Act may file a request for review with the
8 Public Access Counselor for the limited purpose of reviewing
9 whether the public body properly determined that the request
10 was made for a commercial purpose.

11 (b-5) A person whose request to inspect or copy a public
12 record was treated by a public body, except the General
13 Assembly and committees, commissions, and agencies thereof, as
14 a voluminous request under Section 3.6 of this Act may file a
15 request for review with the Public Access Counselor for the
16 purpose of reviewing whether the public body properly
17 determined that the request was a voluminous request.

18 (c) Upon receipt of a request for review, the Public Access
19 Counselor shall determine whether further action is warranted.
20 If the Public Access Counselor determines that the alleged
21 violation is unfounded, he or she shall so advise the requester
22 and the public body and no further action shall be undertaken.
23 In all other cases, the Public Access Counselor shall forward a
24 copy of the request for review to the public body within 7
25 business days after receipt and shall specify the records or
26 other documents that the public body shall furnish to

1 facilitate the review. Within 7 business days after receipt of
2 the request for review, the public body shall provide copies of
3 records requested and shall otherwise fully cooperate with the
4 Public Access Counselor. If a public body fails to furnish
5 specified records pursuant to this Section, or if otherwise
6 necessary, the Attorney General may issue a subpoena to any
7 person or public body having knowledge of or records pertaining
8 to a request for review of a denial of access to records under
9 the Act. To the extent that records or documents produced by a
10 public body contain information that is claimed to be exempt
11 from disclosure under Section 7 of this Act, the Public Access
12 Counselor shall not further disclose that information.

13 (d) Within 7 business days after it receives a copy of a
14 request for review and request for production of records from
15 the Public Access Counselor, the public body may, but is not
16 required to, answer the allegations of the request for review.
17 The answer may take the form of a letter, brief, or memorandum.
18 The Public Access Counselor shall forward a copy of the answer
19 to the person submitting the request for review, with any
20 alleged confidential information to which the request pertains
21 redacted from the copy. The requester may, but is not required
22 to, respond in writing to the answer within 7 business days and
23 shall provide a copy of the response to the public body.

24 (e) In addition to the request for review, and the answer
25 and the response thereto, if any, a requester or a public body
26 may furnish affidavits or records concerning any matter germane

1 to the review.

2 (f) Unless the Public Access Counselor extends the time by
3 no more than 30 business days by sending written notice to the
4 requester and the public body that includes a statement of the
5 reasons for the extension in the notice, or decides to address
6 the matter without the issuance of a binding opinion, the
7 Attorney General shall examine the issues and the records,
8 shall make findings of fact and conclusions of law, and shall
9 issue to the requester and the public body an opinion in
10 response to the request for review within 60 days after its
11 receipt. The opinion shall be binding upon both the requester
12 and the public body, subject to administrative review under
13 Section 11.5.

14 In responding to any request under this Section 9.5, the
15 Attorney General may exercise his or her discretion and choose
16 to resolve a request for review by mediation or by a means
17 other than the issuance of a binding opinion. The decision not
18 to issue a binding opinion shall not be reviewable.

19 Upon receipt of a binding opinion concluding that a
20 violation of this Act has occurred, the public body shall
21 either take necessary action immediately to comply with the
22 directive of the opinion or shall initiate administrative
23 review under Section 11.5. If the opinion concludes that no
24 violation of the Act has occurred, the requester may initiate
25 administrative review under Section 11.5.

26 A public body that discloses records in accordance with an

1 opinion of the Attorney General is immune from all liabilities
2 by reason thereof and shall not be liable for penalties under
3 this Act.

4 (g) If the requester files suit under Section 11 with
5 respect to the same denial that is the subject of a pending
6 request for review, the requester shall notify the Public
7 Access Counselor, and the Public Access Counselor shall take no
8 further action with respect to the request for review and shall
9 so notify the public body.

10 (h) The Attorney General may also issue advisory opinions
11 to public bodies regarding compliance with this Act. A review
12 may be initiated upon receipt of a written request from the
13 head of the public body or its attorney, which shall contain
14 sufficient accurate facts from which a determination can be
15 made. The Public Access Counselor may request additional
16 information from the public body in order to assist in the
17 review. A public body that relies in good faith on an advisory
18 opinion of the Attorney General in responding to a request is
19 not liable for penalties under this Act, so long as the facts
20 upon which the opinion is based have been fully and fairly
21 disclosed to the Public Access Counselor.

22 (Source: P.A. 96-542, eff. 1-1-10; 97-579, eff. 8-26-11.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.